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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/577,371 | 04/28/2006 | Yasushi Hatano | HEI-015 | 9831 |

32628 7590 10/13/2010
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| EXAMINER |
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AUGHENBAUGH, WALTER

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| ART UNIT | PAPER NUMBER |
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1782

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| MAIL DATE | DELIVERY MODE |
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10/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|---|-----------------------------------|-------------------------------|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/577,371 | Applicant(s) HATANO ET AL. | |
| | Examiner WALTER B. AUGHENBAUGH | Art Unit 1782 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1 and 3-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/David R. Sample/
Supervisory Patent Examiner, Art Unit 1783

Continuation of 3. NOTE: the amendment in claim 15 requires further consideration and/or search. As stated by Applicant, "[t]he cover in claim 15 is now positively recited". Page 9 of after-final amendment.

Continuation of 11. does NOT place the application in condition for allowance because: Examiner notes that insertion of "is" in claim 10 would overcome the 112, second paragraph, rejection of claim 10. The claim language recites the "resin lump" as a component that is separate from the heat sealing resin piece of the projection portion (recited in claim 8) and the cover film (recited in claim 8). In regard to Applicant's statements in response to the 112, second paragraph, rejection of claim 15, the rejection does not allege that it is unclear whether or not the container and the cover member are separate elements.

In regard to Applicant's arguments in response to the 102 rejection of claims 1 and 5-10, Kinigakis teaches the structural and compositional limitations that are claimed. Layer 120 of Kinigakis is a heat sealing layer (col. 5, lines 2-4). If Applicant intends to claim more specific structural limitations, those more specific structural limitations should be recited in the claim language.

The rejection of record states: "The horizontal portion of inner layer 120 corresponds to the claimed projecting portion..." and "The horizontal portion of outer layer 220 corresponds to the claimed "opening rim part"". Inner layer 120 of Kinigakis is disposed on outer layer 220, and therefore the structural and compositional limitations that are claimed are taught by Kinigakis, as explained in the rejection of record.

In further regard to claim 8, it is unclear how the horizontal portion of inner layer 120 of Kinigakis protrudes toward the interior of the container of Kinigakis any less than, for example, item 51 in Applicant's Fig. 6b (see paragraph 0177, which identifies item 51 as protruding toward the interior of the container). Both layer 120 of Kinigakis and item 51 of Applicant (Fig. 6b) are directed horizontally (although the horizontal portion of layer 120 of Kinigakis is slightly curved [Fig. 3], which may be seen as protruding more toward the interior of the container than item 51 protrudes toward the interior of the container in Fig. 6b of Applicant's specification). It is improper to import claim limitations from the specification. MPEP 2111.01 II. If Applicant intends to claim more specific structural limitations, those more specific structural limitations should be recited in the claim language.